IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1705 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNITED INDIA INSURANCE CO.LTD.

Versus

BHARWAD DAHYABHAI NAGAJIBHAI

Appearance:

1. Civil Revision Application No. 1705 of 1999

MS AVANI S MEHTA for Petitioner No. 1

MR RC JANI for Respondent No. 1-2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 17/07/2003

ORAL JUDGEMENT

1. United India Insurance Co.Ltd., applicant original opponent No.2 has filed this Civil Revision Application under Section 115 of the Code of Civil

Procedure, challenging the order dated 9th August, 1999, passed by the Motor Accident Claim Tribunal (Auxi.), Sabarkantha District, Camp.Modasa - order below Exh.3 in M.A.C.P. No.1780 of 1997. The learned Judge by his impugned order has allowed the said application and ordered the opponents to deposit Rs.25,000/- in the office of the tribunal jointly and severally with interest at the rate of 12% p.a. from the date of the application till the realisation.

2. When the matter was placed for hearing before this Court on 13th April, 2000, this Court admitted the matter and also granted interim stay on the implementation of the order passed by the learned tribunal till then. The matter reached hearing before this Court today.

3. Mrs.Avani Mehta, learned advocate appears for the applicant and Mr.R.C.Jani, learned advocate appears on behalf of the opponents.

4. Mr.Jani, learned advocate for the opponents stated that this Revision Application is arising out of the interim order i.e. order passed below application under Section 14 of the Motor Vehicles Act and in view of section 115 of the Code of Civil Procedure as amended by Act 46 of 1999 by Section 12 with effect from 1.7.2002 particularly proviso to the said section, the present Civil Revision Application is not maintainable at law. In support of his contention, he has relied on the judgment of the Apex Court in the case of Shiv Shakti Co-op. Housing Society, Nagpur Vs. M/s.Swaraj Developers and others reported in 2003 AIR SCW 2445.

5. Without expressing any opinion on the merits of the matter, in view of the submissions made by the parties, I am of the view that the present revision application is not maintainable. However, I do not express any opinion on the merits of the matter. I request the learned trial Judge to decide the M.A.C.P.No.1780 of 1997 in accordance with law within four months i.e. preferably by 30th November, 2003. Meanwhile, Mrs.Avani Mehta, learned advocate for the applicant-United Insurance Co.Ltd. has submitted that they will deposit Rs.25,000/- (Rupees Twenty Five Thousand) as ordered by the trial court without prejudice to the rights and contentions of the matter before the trial court by 11th August, 2003. After the said amount being deposited by the applicant - insurance company before the trial court, the trial court will invest the said amount in a Fixed Deposit Receipt initially for a

period of six months (with future renewal as the case may be) in any Nationalised Bank. The learned trial Judge will also consider the amount of Rs.25,000/- which has been deposited by the insurance company in this behalf along with the interest and pass the appropriate order depending upon the final judgment of the court in this behalf.

6. In view of the aforesaid observations and directions, this Civil Revision Application is disposed of accordingly with no order as to costs. Rule is discharged.

(K.M. Mehta, J.)

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